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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,054	08/20/2003	Michael Joseph Stirniman	50103-565	5143
7590	11/16/2005		EXAMINER	
MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			MACARTHUR, SYLVIA	
			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/644,054	STIRNIMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sylvia R. MacArthur	1763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 and 24-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/20/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of claims 1-15 and 24-27 in the reply filed on September 1, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-15 and 25-27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,613,151. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present invention are broader than those of the patent. The scope of the claims of the present invention are encompassed by the patent.

For example, the patent claims an elongated lubricant vapor source while the present invention claims a lubricant source. Additionally, the patent claims nozzle slits while the present invention claims plugs.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauer et al (US 6,241,824) in view of Dick et al (US 5,904,958).

Brauer et al teaches an apparatus for coating of substrates in a vacuum chamber.

Regarding claims 1 and 13: Brauer et al teaches an apparatus for vapor depositing a uniform thickness thin film of a lubricant on at least one surface of a disk-shaped substrate, comprising:

- (a) a chamber 3,4 having an interior space;
- (b) a substrate loader/unloader (transport arm 15 or 16) for supplying said interior space with at least one disk-shaped substrate (19) and for withdrawing at least one disk-shaped substrate from said interior space, said disk-shaped substrate comprising a magnetic or magneto optical data/information storage and retrieval medium;
- (d) a substrate transporter/conveyor (see Fig. 1, rotary plate 20) for continuously moving at least one disk-shaped substrate past said stream of lubricant vapor from said at least one lubricant vapor source for depositing on at least one surface thereof a

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uniform thickness thin film of lubricant.

Brauer et al fails to teach (c) at least one lubricant vapor source for supplying said interior space with a stream of lubricant vapor, said vapor source comprising a closed heated chamber fluidly communicating with at least a plurality of primary plugs for supplying a stream of lubricant vapor.

Dick et al teaches an adjustable nozzle for evaporation or organic monomers. Dick et al further teaches an evaporator 26 (vapor source). The organic monomer enters the evaporation chamber through an inlet 46. The nozzle plate 50 is bolted to the nozzle housing 28 using bolts 58. The motivation to modify the apparatus of Brauer et al to utilize the evaporator of Dick et al is that the nozzle features a plurality of plugs (bolts) spaced along the width of the nozzle offering better control of deposition material.

Regarding claim 2: The apparatus according to claim 1, wherein said chamber (a) is adapted for maintaining said interior space at a pressure below atmospheric pressure, see abstract of Dick et al.

Regarding claim 3: The apparatus according to claim 1, wherein said substrate loader/unloader (b) is adapted for providing cooling/condensation (see col. 3 lines 50-67 of Dick et al) of said lubricant vapor for preventing escape of said lubricant vapor from said interior space of said chamber.

Regarding claim 4: The apparatus of Brauer et al , wherein said substrate loader/unloader (b) is adapted for supplying and withdrawing at least one disc-shaped substrate having a pair of opposed surfaces and said substrate transporter/conveyor (d) is adapted for mounting or gripping at least one disc-

shaped substrate, col. 3 lines 7-21.

Regarding claim 5: The apparatus according to claim 4, wherein said at least one lubricant vapor source (c) is elongated, with a length greater than an outer diameter of said disc-shaped substrate, see col. 4 lines 18-40 of Dick et al.

Regarding claim 6: The apparatus lubricant vapor source (c) according to claim 5, wherein said elongated comprises a closed heated chamber for accommodating liquid lubricant therein and serving as a lubricant vaporizer, said closed heated chamber fluidly communicating with at least a plurality of primary plugs for supplying said stream of lubricant vapor, see col. 4 of Dick et al.

Regarding claim 7: The apparatus according to claim 6, wherein said elongated vapor source (c) further comprises a plurality of secondary plugs for increased collimation of said stream of lubricant vapor, see Figs 2,4, and 6 of Dick et al.

Regarding claim 8: The apparatus according to claim 6, further comprising a Spaced apart plurality of said elongated lubricant vapor sources (c) arranged along a path of transport conveyance of said at least one disc-shaped substrate within said interior space of said chamber, see sources 6,7, and 10-14 of Brauer et al.

Regarding claims 9 and 24: An apparatus according to claim 1, wherein said lubricant vapor source (c) comprises at least a plurality of threaded holes into which said plugs are screwed therein, see Figs. 2,4, and 6 of Dick et al.

Regarding claims 10 and 25: The apparatus according to claim 9, wherein each of said plugs comprises a drilled hole, said drilled hole substantially extending the length of the plug's interior, see Figs. 2,4, and 6 of Dick et al.

Regarding claims 11 and 26: The apparatus according to claim 10, wherein the drilled hole of each plug can have substantially the same or different diameter from one another, see Figs. 2,4, and 6 of Dick et al.

Regarding claims 12 and 27: The apparatus according to claim 10, wherein the plugs form a pattern in the form of a linear array, a diagonal array, or a rectangular array see Figs. 2,4, and 6 of Dick et al.

Regarding claim 14: The apparatus according to claim 13, wherein said spaced-apart plurality of lubricant vapor sources (c) comprises a second plurality of radially extending, elongated lubricant vapor sources for depositing a thin film of lubricant on a second one of said pair of opposed surfaces of said disc-shaped substrate, see Figs. 1-5 of Brauer et al.

Regarding claim 15: The apparatus according to claim 8, wherein said chamber (a) is an elongated, rectangular box-shaped chamber having a pair of longitudinally extending front and rear walls; said substrate loader/unloader (b) comprises a substrate load lock chamber connected to said chamber at a first end of said front wall and a substrate exit lock chamber connected to said chamber at a second end of said front wall; each of said spaced-apart plurality of elongated lubricant vapor sources (c) extends transversely across said front wall in the space between said load lock and said exit chambers; and said substrate transporter/conveyor (d) is adapted to move said at least one disc-shaped substrate in a linear path past each of the transversely extending, elongated lubricant vapor sources, see Brauer et al Figs. 1-5.

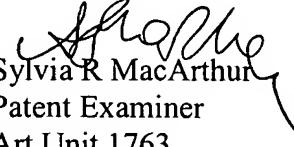
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia R. MacArthur whose telephone number is 571-272-1438.

The examiner can normally be reached on M-F during the core hours of 9 a.m. and 3 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sylvia R MacArthur  
Patent Examiner  
Art Unit 1763

November 14, 2005